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HIGH COURT OF CHHATTISGARH: BILASPUR

Writ Petition (S) No. 872 of 2007

Petitioner	Thomas Xess, aged about 56 years, S/o. Late Shri Jhagru Xess, occupation Government Service, posted as Sub Divisional Officer, Forest Department, Dhowrpur East Surguja Division Ambikapur, District Surguja, CG.

Versus

Respondents	1) The State of Chhattisgarh, through the Secretary, Department of Forest, Mantralaya – D.K.S. Bhawan, Raipur, CG.
	2) Conservator of Forest, Surguja, Circle, Ambikapur, CG.
	3) Managing Director, Chhattisgarh, Rajya Vanopaj Sangh, Raipur, CG.
	4) Shri R.K. Malhotra, Sub Divisional Officer, O/o. Deputy Divisional Forest Officer, Kunkuri, Forest Division, Jashpur, CG.

(Writ Petition under Article 226 of the Constitution of India)

S.B: Hon'ble Shri Justice Satish K. Agnihotri.

PRESENT:

Shri Shailendra Dubey, counsel for the petitioner.
Shri Sushil Dubey, Govt. Advocate for respondents No. 1 to 3/ State.
Shri Manoj Paranjpe, counsel for respondent No.4.

ORAL ORDER
(Passed on 19th April 2007)

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1. The petitioner, by this petition, impugns the order dated 4-2-2007 (Annexure P/1), whereunder he has been transferred from the post of Sub Divisional Officer, Forest Department, Dhowrpur, East Surguja Division Ambikapur, Dist. Surguja to the District Union, Rajya Laghu Vanopaj Sangh, as Sahayak Van Sanrakshak, Dantewara. The petitioner impugns the order on the ground that the impugned order is not a transfer simplicitor, but it is a deputation order which has been passed without obtaining consent of the petitioner.

2. Issue as to whether an employee can be sent on deputation without obtaining consent of the concerned employee to other department was considered in the matter of **P.R. Jhangde Vs. State of Chhattisgarh and others**), wherein it was held that the deputation order without consent of the concerned employee is vitiated and the petition was allowed vide order allowed vide order dated 17-4-2007 passed in Writ Petition (s) No.897/2007.

3. Hon"ble the Supreme Court in the matter of **State of Punjab and others Vs. Indersingh and others**[1], at para 18 observed as under

> "18. The concept of "deputation" is well understood in service law and has a recognized meaning. "Deputation" has a different connotation in service law and the dictionary meaning of the word "deputation" is of no help. In simple words "deputation" means service outside the cadre or outside the parent department. Deputation is deputing or transferring an employee to a post outside his cadre, that is to say, to another department on a temporary basis. After the expiry period of deputation the employee has to come back to his parent department to occupy the same position unless in the meanwhile he has earned promotion in his parent department as per the Recruitment Rules. Whether the transfer is outside the

[1] (1997) 8 SCC 372

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> normal field of deployment or not is decided by the authority who controls the service or post from which the employee is transferred. There can be no deputation without the consent of the person so deputed and he would, therefore, know his rights and privileges in the deputation post."

4. Hon'ble the Supreme Court in the matter of **Umapati Choudhary Vs. State of Bihar and another**[2] observed as under:

> "The necessity for sending on deputation arises in public interest to meet the exigencies of public service. The consent of deputation is consensual and involves a voluntary decision of the employer to lend the services of his employee and a corresponding acceptance of such services by the borrowing employer. It also involves the consent of the employee to go on deputation or not."

5 In view of the foregoing, the petition deserves to be allowed.

6. As a result, the impugned order dated 4-2-2007 (Annexure P/1) in respect of the petitioner, is quashed. The petition is allowed in terms of the order dated 17-4-2007 passed by this Court in W.P.(S)No. 897 of 2007 (**P.R. Jhangde Vs. State of Chhattisgarh and others**).

Sd/-
Satish K. Agnihotri
Judge

Raju

[2] AIR 1999 SC 1948